

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

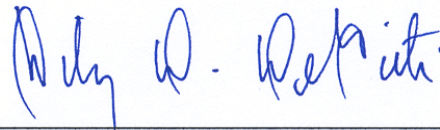
KERRY EUGENE MILLS,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-15-619-D
)	
JASON BRYANT, Warden,)	
Oklahoma Department of)	
Corrections,)	
)	
Respondent.)	

ORDER

Petitioner, appearing pro se, sought a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to Magistrate Judge Suzanne Mitchell for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B), (C). Judge Mitchell found Petitioner had been denied his right to a direct appeal through ineffective assistance of counsel, and recommended that the Court grant Petitioner a conditional writ of habeas corpus. *See* Report and Recommendation (R&R) [Doc. No. 22]. There being no objection from the parties, the Court adopted the R&R [Doc. No. 23]. Respondent subsequently moved the Court to clarify or modify its Order and Judgment to instruct Petitioner to file an application for post-conviction relief seeking an appeal out of time in the district court, and to clarify to Petitioner that he is entitled to counsel after he is granted permission to file an appeal out of time. Petitioner objected and the matter was re-referred to Judge Mitchell.

On December 1, 2016, Judge Mitchell issued a subsequent R&R [Doc. No. 28] in which she recommended that the Court grant Respondent's motion to clarify and set forth specific procedural guidelines for the parties to follow with respect to Petitioner's request for post-conviction relief. *Id.* at 4-5. In her R&R, Judge Mitchell advised the parties of the right to file objections to the same and directed the parties to file any objections no later than December 21, 2016. *Id.* at 5. Judge Mitchell further admonished the parties that failure to timely object would constitute a waiver of the right to appellate review of the factual and legal issues addressed in the Report and Recommendation. *Id.* The deadline for filing objections has expired and, to date, neither party has filed objections nor sought an extension of time in which to do so. Accordingly, the R&R [Doc. No. 28] is **ADOPTED** as though fully set forth herein. A modified judgment shall be issued accordingly.

IT IS SO ORDERED this 4th day of January, 2017.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE